

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Complaint No. R1-2005-0031

Mandatory Minimum Penalties

For

Violations of Waste Discharge Requirements

Order No. 92-51

and

Order No. R1-2003-0026

In The Matter

of

Russian River County Sanitation District Wastewater Treatment Facility

WDID No. 1B820450SON

Sonoma County

This Complaint to assess mandatory minimum penalties pursuant to California Water Code Section 13385(h) and/or (i) is issued to the Russian River County Sanitation District and the Sonoma County Water Agency (hereafter referred to as the Dischargers) for violations of Waste Discharge Requirements Order No. 92-51 (NPDES Permit No. CA0024058) for the period January 11, 2000, through December 24, 2003, and Waste Discharge Requirements Order No. R1-2003-0026 for the period December 25, 2003, through August 4, 2004.

The Executive Officer finds the following:

1. On June 22, 1995, the Regional Water Quality Control Board, North Coast Region, (Regional Water Board) adopted Waste Discharge Requirements Order No. 92-51 (Order No. 92-51), for the Russian River County Sanitation District to regulate discharges of waste from its Wastewater Treatment Facility in Guerneville. Order No. 92-51 was rescinded and replaced with Waste Discharge Requirements Order No. R1-2003-0026 (Order No. R1-2004-0009) on November 5, 2003. Order No. R1-2003-0026 became effective on December 26, 2003. Both Orders require the Dischargers to implement a discharge monitoring program and to prepare and submit monthly NPDES self-monitoring reports to the Regional Water Board.
2. This Complaint covers violations of effluent limitations that occurred during periods of discharge to receiving waters for the period of January 11, 2000, through August 4, 2004. The details of these violations are summarized in Findings 11 through 14 of this Complaint. These violations are subject to the

mandatory minimum penalties provision contained in Sections 13385(h) through (l) of the California Water Code.

3. California Water Code Section 13385(h)(1) requires the Regional Water Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation.
4. California Water Code Section 13385(h)(2) states that a serious violation occurs if the discharge from a facility regulated by an NPDES permit exceeds the effluent limitations for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 Code of Federal Regulations, by 40 percent or more, or for a Group II pollutant, as specified in Appendix B to Section 123.45 of Title 40 Code of Federal Regulations, by 20 percent or more.
5. California Water Code Section 13385(i)(1) requires the Regional Water Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any six-month period:
 - a. Violates a waste discharge requirement effluent limitation.
 - b. Fails to file a report pursuant to Section 13260.
 - c. Files an incomplete report pursuant to Section 13260.
 - d. Violates a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

Violations under Section 13385(i)(1) of the California Water Code are referred to as chronic violations in this Complaint.

6. On February 19, 2002, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. The Enforcement Policy addresses, amongst other enforcement issues, issues related to assessing mandatory minimum penalties allowing compliance projects. This Complaint includes requirements for compliance projects specified in Section X of the Enforcement Policy.
7. CWC Section 13385(k)(1) provides that all or a portion of mandatory minimum penalties imposed against a POTW serving an eligible small community under CWC 13385(h) or (i) may be directed to a compliance project (CP) in accordance with Section X of the Enforcement Policy.

8. Order No. 92-51 included the following effluent limitations:

B. EFFLUENT LIMITATIONS

1. Only advanced treated wastewater, as defined by the numerical limitations below shall be discharged from the wastewater treatment plant to the Russian River (Discharge Serial No. 001). The advanced treated wastewater shall be adequately disinfected, oxidized, coagulated, clarified and filtered (or equivalent), as determined by the State Department of Health Services. Advanced treated wastewater shall not contain constituents in excess of the following limits:

Constituent	Unit	30-Day Average	7-Day Average	Daily Maximum
Total Coliform Organisms	MPN/100ml	23 ^a	---	230
Chlorine Residual	mg/l	---	---	0.1
Turbidity	NTU	2	---	5 ^b

a. Median

b. Five NTU maximum not to be exceeded more than 5 percent of the time.

9. Order No. R1-2003-0026 includes the following effluent limitations:

B. EFFLUENT LIMITATIONS

2. The disinfected effluent discharged from the WWTF to the Russian River shall not contain concentrations of total coliform bacteria exceeding the following limitations:
- a. The median concentration shall not exceed a Most Probable Number (MPN) of 2.2 per 100 milliliters, using the bacteriological results of the last seven days for which analyses have been completed.
 - b. The number of coliform bacteria does not exceed an MPN of 23 per 100 milliliters in more than one sample in any 30-day period.
 - c. No sample shall exceed an MPN of 240 total coliform bacteria per 100 milliliters.
10. The Enforcement Policy states that for the purpose of determining serious violations, total residual chlorine is identified as a Group II pollutant in Title 40 Code of Federal Regulations, Section 123.45, Appendix B. Turbidity and total coliform are neither Group I nor Group II pollutants, therefore exceedances of them do not count as serious violations.

11. According to monitoring reports submitted by the Dischargers, the discharge exceeded discharge and effluent limitations five times during the 180-day period from February 13, 2000, through June 16, 2000. All of those five exceedances were chronic violations in accordance with CWC Section 13385(i)(1). The mandatory penalty amount for those violations is \$6,000 as shown in the following table:

**Table 1. Effluent Limitation Exceedances
February 13, 2000, through June 16, 2000**

Violation Date	Description of Violation	Violation Type	Mandatory Penalty
02/13/00	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (6.5 hrs)	1 st Chronic	No MMP
03/04/00	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (6.2 hrs)	2 nd Chronic	No MMP
03/31/00	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (> 9 hrs)	3 rd Chronic	No MMP
04/01/00	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (13 hrs)	Chronic	\$3,000
05/14/00	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (5.2 hrs)	Chronic	\$3,000
Total			\$6,000

12. According to monitoring reports submitted by the Dischargers, the discharge exceeded effluent limitations four times during the 180-day period from July 21, 2001, through January 16, 2002. Of those four exceedances, one was a serious violation in accordance with CWC Section 13385(h) and three were chronic violations in accordance with CWC Section 13385(i)(1). The mandatory penalty amount for those violations is \$6,000 as shown in the following table:

**Table 2. Effluent Limitation Exceedances
July 21, 2001, through January 16, 2002**

Violation Date	Description of Violation	Violation Type	Mandatory Penalty
11/30/01	Exceeded 30-Day Median Total Coliform limitation of 2.2 MPN/100 ml (3.0 MPN/100 ml)	1 st Chronic	No MMP
12/03/01	Exceeded Daily Maximum Total Coliform limitation of 23 MPN/100 ml (30 MPN/100 ml)	2 nd Chronic	No MMP
01/03/02	Exceeded Daily Maximum total Chlorine Residual limitation of 0.1 mg/l (0.5 mg/l)	3 rd Chronic (Serious)	\$3,000
01/16/02	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (6 hrs)	Chronic	\$3,000
Total			\$6,000

13. According to monitoring reports submitted by the Dischargers, the discharge exceeded effluent limitations seven times during the 180-day period from July 19, 2002, through January 14, 2003. All of those seven exceedances were chronic violations in accordance with CWC Section 13385(i)(1). The mandatory penalty amount for those violations is \$12,000 as shown in the following table:

**Table 3. Effluent Limitation Exceedances
July 19, 2002, through January 14, 2003**

Violation Date	Description of Violation	Violation Type	Mandatory Penalty
12/17/02	Exceeded Daily Maximum Total Coliform limitation of 23 MPN/100 ml (27 MPN/100 ml)	1 st Chronic	No MMP
12/17/02	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (25.5 hrs)	2 nd Chronic	No MMP
12/18/02	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (5.5 hrs)	3 rd Chronic	No MMP
12/19/02	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (5.8 hrs)	Chronic	\$3,000
01/11/03	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (5 hrs)	Chronic	\$3,000
01/12/03	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (12hrs)	Chronic	\$3,000
01/14/03	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (10 hrs)	Chronic	\$3,000
Total			\$12,000

14. According to monitoring reports submitted by the Dischargers, the discharge exceeded effluent limitations 16 times during the 180-day period from January 2, 2004, through June 29, 2004. Of those sixteen exceedances, one was a serious violation in accordance with CWC Section 13385(h) and fifteen were chronic violations in accordance with CWC Section 13385(i)(1). The mandatory penalty amount for those violations is \$39,000 as shown in the following table:

**Table 4. Effluent Limitation Exceedances
January 2, 2004, through June 29, 2004**

Violation Date	Description of Violation	Violation Type	Mandatory Penalty
01/02/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (4 MPN/100 ml)	1 st Chronic	No MMP
01/03/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (4 MPN/100 ml)	2 nd Chronic	No MMP
01/04/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (4 MPN/100 ml)	3 rd Chronic	No MMP
01/28/04	Exceeded Maximum Total Coliform limitation of 240 MPN (300 MPN/100 ml)	Chronic	\$3,000

Violation Date	Description of Violation	Violation Type	Mandatory Penalty
01/31/04	Monthly Maximum Total Coliform limitation of 23 MPN (300 MPN/100 ml)	Chronic	\$3,000
02/19/04	Exceeded Maximum Total Coliform limitation of 240 MPN (1600 MPN/100 ml)	Chronic	\$3,000
02/21/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (13 MPN/100 ml)	Chronic	\$3,000
02/22/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (13 MPN/100 ml)	Chronic	\$3,000
02/23/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (13 MPN/100 ml)	Chronic	\$3,000
02/24/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (11 MPN/100 ml)	Chronic	\$3,000
02/25/04	Exceeded 7-Day Median Total Coliform limitations of 2.2 MPN (4 MPN/100 ml)	Chronic	\$3,000
02/26/04	Exceeded Daily Maximum Chlorine Residual limitation of 0.1 mg/l (0.2 mg/l)	Serious	\$3,000
02/27/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (4 MPN/100 ml)	Chronic	\$3,000
02/29/04	Exceeded Monthly Maximum Total Coliform limitation of 23 MPN (1600 MPN/ 100 ml)	Chronic	\$3,000
03/23/04	Exceeded Maximum Total Coliform limitation of 240 MPN (900 MPN 100 ml)	Chronic	\$3,000
03/31/04	Exceeded Monthly Maximum Total Coliform limitation of 23 MPN (900 MPN/ 100 ml)	Chronic	\$3,000
Total			\$39,000

15. The total amount of the mandatory penalties for serious and chronic violations occurring during the period February 13, 2000, through January 2, 2004, is \$63,000. Regional Water Board staff costs for addressing this enforcement action are estimated at approximately \$2,600 for 40 hours of staff time to prepare this Complaint and associated documents for the enforcement hearing.¹
16. The issuance of this Complaint is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) pursuant to Title 14, California Code of Regulations Sections 15308 and 15321(a)(2).

¹ The cost of staff time is \$65 per hour.

THE RUSSIAN RIVER COUNTY SANITATION DISTRICT AND THE SONOMA COUNTY WATER AGENCY ARE HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Water Board proposes that the Dischargers be assessed a Mandatory Penalty in the amount of \$63,000 for the violations that occurred from February 13, 2000, through January 2, 2004.
2. A hearing shall be conducted on this Complaint by the Regional Board on June 22, 2005, unless the Dischargers waive the right to a hearing by signing and returning the waiver form attached to this Complaint within 30 days of the date of this Complaint. By doing so, the Dischargers agree to:
 - a. Pay the mandatory penalty of \$63,000 in full within 30 days of the date of this Complaint, or
 - b. Propose a CP in an amount up to \$60,400 and pay the balance of the penalty within 30 days of the date of this Complaint.
3. If the Dischargers choose to propose a CP, they must submit a proposal within 30 days of the date of this Complaint to the Executive Officer for conceptual approval. Any CP proposal shall conform to the requirements specified in Section X of the Enforcement Policy and the attached Standard Criteria and Requirements for Compliance Projects. If the proposed CP is not acceptable, the Executive Officer may allow the Dischargers 30 days to submit a new or revised proposal, or may demand that, during the same 30-day period, the Dischargers pay the suspended penalty of \$63,000. All payments, including money not used for the CP, must be payable to the State Water Pollution Cleanup and Abatement Account.
4. The settlement may become effective on the next day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint, reissue it as appropriate, or take other appropriate action.
5. If a hearing is held, the Regional Water Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the matter to the Attorney General to have a Superior Court consider enforcement.
6. Regulations of the United States Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act, including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.

7. Notwithstanding the issuance of the Complaint, the Regional Water Board shall retain the authority to assess additional penalties for violations of the Discharger's Waste Discharge Requirements.

Order by _____
Catherine E. Kuhlman
Executive Officer

May 12, 2005